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In re Application of :
Rodgers, et al. : DECISION ON APPLICATION
Application No. 09/658,315 : FOR PATENT TERM ADJUSTMENT
Filed: September 8, 2000 :
Atty. Dkt. No: 98.009-B1 :

This is a decision on the "Request for Patent Term Adjustment Determination," filed March 7, 2007. This matter is being treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

Applicants request that the Determination of Patent Term Adjustment be corrected from 765 days, as indicated on the Determination of Patent Term Adjustment mailed January 10, 2007, to an adjustment of 1188 days. Specifically, applicants argue that the reduction 208 days was improperly accorded and that the adjustment of 929 days is less than should be accorded.

The correct patent term adjustment (PTA) at the time of the allowance is 1178 days. The Office will adjust the PAIR screen to reflect that the PTA determination at the time of mailing of the instant letter reflects an adjustment of 1178 days. A copy of the updated PAIR screen showing the correct determination is enclosed.

As uncontested by applicants, an adjustment of 126 days can be attributed to the Office in accordance with 37 CFR 1.702(a)(1).

As argued by applicants, the application is entitled to an adjustment of 1144 days, rather than 929 days as reflected in the Determination of Patent Term Adjustment mailed January 10, 2007, in accordance with 37 CFR 1.702(a)(2). The adjustment began June 11, 2003, the day after the date that is four months after the date that a reply to the non-final Office action was

filed, and ended July 28, 2006, the date that the second non-final Office action was mailed.

The adjustment totaling 1270 days is properly reduced 70 days, as uncontested by applicants, in accordance with 37 CFR 1.704(b) in connection with the reply submitted August 23, 2002.

The adjustment totaling 1270 days is further properly reduced 10 days in accordance with 37 CFR 1.704(c)(4) in connection with the petition to withdraw holding of abandonment filed September 11, 2003. The reduction began September 2, 2003, the day after the date that is two months after the date that the Notice of Abandonment was mailed, and ended September 11, 2003, the date the petition was filed.

The adjustment totaling 1270 days is further properly reduced 12 days, as uncontested by applicants, in accordance with 37 CFR 1.704(c)(8) in connection with the information disclosure statement filed November 8, 2006.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 1178 days.

As authorized, applicants' deposit account has been charged the required \$200.00 application fee.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publication for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation